

1 MAXWELL M. FREEMAN, #31278
2 LEE ROY PIERCE, JR., #119318
3 MICHAEL L. GUREV, #163268
4 THOMAS H. KEELING, #114979
5 FREEMAN, D'AUTO, PIERCE,
6 GUREV, KEELING & WOLF
7 A PROFESSIONAL LAW CORPORATION
8 1818 Grand Canal Boulevard, Suite 4
9 Stockton, California 95207
10 Telephone: (209) 474-1818
11 Facsimile: (209) 474-1245
12 E-mail: lrpierce@freemanfirm.com
13 mgurev@freemanfirm.com
14 tkeeling@freemanfirm.com

15 Attorneys for Defendants A.G. Spanos
16 Construction, Inc.; A.G. Spanos
17 Development, Inc.; A.G. Spanos
18 Land Company, Inc.; A.G. Spanos
19 Management, Inc., and The Spanos Corporation

20
21 IN THE UNITED STATES DISTRICT COURT
22
23 FOR THE NORTHERN DISTRICT OF CALIFORNIA

24 National Fair Housing Alliance, Inc., et al.,	)	CASE NO. C07-03255-SBA
)	
25 Plaintiffs,	)	NOTICE OF MOTION AND MOTION
	)	OF DEFENDANTS A.G. SPANOS
26 vs.	)	CONSTRUCTION, INC., A.G. SPANOS
	)	DEVELOPMENT, INC., A.G. SPANOS
27 A.G. Spanos Construction, Inc., et al.	)	LAND COMPANY, INC., A.G.
	)	SPANOS MANAGEMENT, INC. AND
28 Defendants.	)	THE SPANOS CORPORATION TO
	)	DISMISS PLAINTIFFS' FIRST
	)	AMENDED COMPLAINT

29 [Fed. R. Civ. P. 12(b)(6)]

30 Hearing Date: February 26, 2008
31 Time: 1:00 p.m.
32 Dept: Courtroom 3

33 Complaint Filed: June 20, 2007

34
35 **TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

36 **PLEASE TAKE NOTICE** that on February 26, 2008 at 1:00 p.m., or as soon
37 thereafter as this matter may be heard, in Courtroom 3 of the above-entitled court, located at
38 1301 Clay Street, 3rd Floor, Oakland, California, Defendants A.G. Spanos Construction, Inc.,

1 A.G. Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos
2 Management, Inc., and The Spanos Corporation ("Defendants") will and hereby do move this
3 court, pursuant to rule 12(b)(6) of the Federal Rules of Civil Procedure, for an order
4 dismissing the claims of Plaintiffs National Fair Housing Alliance, Inc., Fair Housing of
5 Marin, Inc. Fair Housing Napa Valley, Inc., Metro Fair Housing Services, Inc., Fair Housing
6 Continuum, Inc. ("Plaintiffs").

7 The basis of this Motion, as set forth more fully in the accompanying Memorandum of
8 Points and Authorities, is that: (1) Plaintiffs' claim for relief under the Fair Housing
9 Amendments Act, 42 U.S.C. §§ 3601, et. seq. ("FHAA") is barred by the statute of
10 limitations as to all but eight of the eighty-five properties identified in the First Amended
11 Complaint; (2) Plaintiffs have failed to allege facts sufficient to state a cause of action because
12 they are not "aggrieved persons" within the meaning of the FHAA, they do not claim to
13 belong to the protected class or to sue on behalf of members of the protected class, their
14 damages, as alleged, were voluntarily incurred, and they have failed to name necessary and/or
15 indispensable parties; (3) Plaintiffs fail to allege that the Spanos Defendants actually denied, or
16 could deny, a rental to any member of the protected class; and (4) the First Amended
17 Complaint fails to allege facts sufficient to establish plaintiffs' standing to sue.

18 This Motion will be based upon this Notice of Motion and Motion, the Memorandum of
19 Points and Authorities in support of this Motion, the Request for Judicial Notice filed in
20 support of this Motion, and the pleadings, orders, records and documents on file in this case,
21 as well as such oral and documentary evidence as may be properly presented at the hearing on
22 this Motion.

23 Opposition, if any, to the granting of the motion must be served and filed not less than
24 twenty-one (21) days before the hearing date. If the party against whom the motion is directed

25 / / /

26 / / /

27 / / /

28 / / /

1 does not oppose the motion, that party must file with the Court a Statement of Nonopposition
2 within the time for filing and serving any opposition. (See L.R. 7-3(a) and 7-3(b).)

3 Dated: December 21, 2007

FREEMAN, D'AIUTO, PIERCE, GUREV,
KEELING & WOLF

4
5 By



THOMAS H. KEELING

6 Attorneys for Defendants A.G. Spanos
7 Construction, Inc.; A.G. Spanos Development,
8 Inc.; A.G. Spanos Land Company, Inc.; A.G.
9 Spanos Management, Inc., and The Spanos
10 Corporation
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28